

INTOXICATION Penal Law 15.25

If the Court finds that there is sufficient evidence to permit a reasonable person to entertain a reasonable doubt as to the requisite mental state¹, the Court should include the following charge in its definition of that mental state in the definition of the crime(s) to which the charge applies.

Under our law, intoxication is not, as such, a defense to a criminal charge. But evidence of the defendant's intoxication may be considered whenever it is relevant to negative an element of the crime charged.

Thus, in determining whether the defendant had the (specify, e.g. intent and/or knowledge), necessary to commit a crime you may consider whether the defendant's mind was affected by intoxicants to such a degree that he/she was incapable of forming the (specify, e.g. intent and/or knowledge) necessary for the commission of that crime.²

¹ See *People v. Gaines*, 83 NY2d 925,927 (1994); *People v. Rodriguez*, 76 NY2d 918,920-921 (1990); *People v. Perry*, 61 NY2d 849,850 (1984).

² See *People v. Koerber*, 244 NY 147 (1926). See also *People v. Cronin*, 60 N.Y.2d 430 (1983).